

FILED

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 **WSB WALNUT ASSOCIATES, LLC, et al.,**

14 **Plaintiffs,**

15 **v.**

16 **UNITED STATES OF AMERICA, et al.,**

17 **Defendants.**

Case No. 04-0898 MHP

18 **UNITED STATES OF AMERICA,**

19 **Counterclaimant,**

20 **v.**

21 **WSB WALNUT ASSOCIATES, LLC, et al.,**

22 **Counterclaim Defendants.**

**PARTIES' STIPULATED REQUEST
TO CONTINUE DISCOVERY AND
MOTION HEARING DATE AND
[Proposed] ORDER THEREON**

23 **IT IS HEREBY STIPULATED AND AGREED AND RESPECTFULLY**

24 **REQUESTED** by and between the parties to this action, as reflected by the signatures of their
25 respective counsel as set forth below, that the discovery deadline and motion hearing date
26 currently set for July 7, 2005, and September 12, 2005, at 2:00 p.m., respectively, be continued to

1 September 16, 2005, and November 7, 2005, at 2:00 p.m. respectively. The grounds for this
2 stipulated request are:

3
4 1. The parties have engaged in good faith in the discovery process to request and
5 respond to discovery and to schedule depositions. The plaintiffs have requested that the United
6 States produce certain documents maintained by the Internal Revenue Service that are relevant to
7 this case. The United States has to date produce almost 2000 pages of documents responsive to
8 the plaintiffs' discovery requests. However, as the parties previously advised the Court, one
9 remaining IRS file that would be responsive to the plaintiffs' discovery request appears to have
10 been sent to the IRS archives, but the IRS has still been unable to locate this file. The IRS and
11 counsel for the government have made and are continuing to make diligent efforts to locate this
12 file and have every intention of producing it once and if it is retrieved. It is necessary for the
13 plaintiffs to receive this file, if it is possible to retrieve, prior to conducting the depositions of two
14 IRS employees. While the parties have scheduled and rescheduled these depositions, they have
15 not yet occurred in light of the fact that not all the files have been located and produced.

16
17 2. In addition, the United States intends to take the deposition of plaintiff, Carol
18 West. However, because she is currently living in France, it has remained difficult to coordinate
19 the taking of her deposition. The parties are working cooperatively to determine the date for and
20 necessary logistics of the anticipated deposition of Ms. West.

21
22 Continuing the discovery deadline and motion hearing date is not requested for the
23 purposes of delay. Rather, the continuance of these dates will allow the parties sufficient time in
24 which to effectively conclude the discovery process and to thereafter present sufficient evidence to
25 the Court for resolution of this issues in this case. This is the second request to continue these
26 dates.

1 Accordingly, the parties respectfully request that the Court continue the discovery deadline
2 and motion hearing date to September 16, 2005, and November 7, 2005, at 2:00 p.m. respectively.

3
4 Respectfully submitted,
5 CRAIGIE, McCARTHY & CLOW

6 Dated: July 11, 2005

7 /s/ Kristen E. Drake
8 Kristen E. Drake
9 Attorneys for Plaintiffs
10 WSB Walnut Associates, LLC,
11 Joseph Brady and Carol West

12 KEVIN V. RYAN
13 United States Attorney

14 Dated: July 12, 2005

15 By: /s/ Emily J. Kingston
16 EMILY J. KINGSTON
17 Assistant United States Attorney
18 Attorneys for the United States of America

19 **ORDER**

20 Pursuant to the Stipulation of the parties as set forth above, and for good cause shown,
21 **IT IS HEREBY ORDERED** that the discovery deadline is continued from July 7, 2005,
22 to September 16, 2005.

23 **IT IS FURTHER HEREBY ORDERED** that the motion hearing date currently
24 scheduled for September 12, 2005, at 2:00 p.m. is continued to November 7, 2005, at 2:00 p.m.

25 Dated: 7-20-05

26 W. Hall Patel
27 THE HONORABLE MARILYN HALL PATEL
28 United States District Judge